

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of: : Before the Examiner:  
John F. Bisceglia : Steelman, Mary J.

Serial No.: 10/015,855 : Group Art Unit: 2122

Filed: December 13, 2001 :  
Title: A DEVELOPMENT : IBM Corporation  
ENVIRONMENT FOR BUILDING : Intellectual Property Law  
SOFTWARE APPLICATIONS THAT : 11400 Burnet Road  
MIMIC THE TARGET ENVIRONMENT : Austin, Texas 78758

**REPLY BRIEF UNDER 37 C.F.R. §41.41**

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This Reply Brief is being submitted in response to the Examiner's Answer dated May 4, 2006, with a two-month statutory period for response set to expire on July 4, 2006.

I. RESPONSE TO EXAMINER'S ARGUMENTS

A. Response to argument that Bowman discloses "receiving a first request comprising a description of said development environment and said software application to be developed, wherein said development environment comprises hardware components and software components" as recited in claim 1 and similarly in claims 15, 26 and 37, as discussed on pages 19-21 of Examiner's Answer.

The rejection had previously cited column 2, lines 30-43 and column 3, lines 39-60 of Bowman as disclosing "receiving a first request comprising a description of said development environment and said software application to be developed, wherein said development environment comprises hardware components and software components" as recited in claim 1. Office Action (12/1/2005), pages 2-3. The rejection now additionally cites column 25, line 40; column 26, lines 23-27; column 27, lines 13-18; column 72, line 10; column 83, lines 1-13; and column 114, lines 21-26 and 39-48 of Bowman as also disclosing the above-cited claim limitations. Examiner's Answer, pages 19-20. Appellant respectfully traverses.

These newly cited passages teach the following:

Program management focuses on the continuous oversight needed to support the delivery of business capability through multiple projects and releases. Column 25, lines 32-40. The environment consists not only of system components, but also of the maintenance of these components and the hardware, software, processes, procedures, standards, and policies that govern the environment. Column 26, lines 23-27. The package platform type identifies the eventual delivery platform of the package. Column 27, lines 13-14. Identifying this early on in development and encapsulating this information within the package definition, allows developers to envisage the production environment at an early stage during the systems development life cycle. Column 27, lines 14-18. Analysis tools are used to specify the requirement for the system being developed. Column 72, lines 10-12. Prototypes can be used to interactively gather business requirements and design the application with the end user. Column 83, lines 1-2. If the tool supports interactive prototyping, changes can be quickly incorporated into the prototype and demonstrated back to the user. Column 83, lines 2-5. Hardware maintenance maintains all of the components within a distributed system to protect the investment of the organization. Column 114, lines 21-24.

Generally agreed upon in the SLAs, maintenance contracts are carried out, monitored and recorded for each asset as appropriate. Column 114, lines 24-26. The capacity modeling and planning ensures that adequate resources will be in place to meet the SLA requirements, keeping in mind operational requirements which may require additional capacity. Column 114, lines 39-43.

Appellants respectfully assert that there is no language in the cited passages that discloses receiving a request comprising a description of the development environment and the software application to be developed. Neither is there any language in the cited passages that discloses receiving a request comprising a description of the development environment and the software application to be developed, where the development environment comprises hardware components and software components. Thus, Bowman does not disclose all of the limitations of claims 1, 15, 26 and 37.

Appellant respectfully asserts that the rejection has merely cited to various passages in Bowman without providing any logical connection between those cited passages and the claim limitations. The rejection has not provided a basis in fact and/or technical reasoning to support the assertion that the cited passages in Bowman disclose the above-cited claim limitation. *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990).

B. Response to argument that Bowman discloses "reviewing said first request in accordance with control information for managing said first request" as recited in claim 1 and similarly in claims 15, 26 and 37, as discussed on pages 21-22 of Examiner's Answer.

The rejection had previously cited column 13, line 60 and column 26, lines 6-8 of Bowman as disclosing "reviewing said first request in accordance with control information for managing said first request" as recited in claim 1 and similarly in claims 15, 26 and 37. Office Action (12/1/2005), page 3. The rejection now additionally cites column 23, lines 18-54; column 26, lines 20-27; column 30, lines 39-46 and column 33, lines 52-55 of Bowman as also disclosing the above-cited claim limitation. Examiner's Answer, pages 21-22. Appellant respectfully traverses.

These newly cited passages teach the following:

Bowman discloses the tasks covered by the quality management processes. Column 23, lines 18-54. The configuration management is not only the management of the components in a given environment to ensure that they collectively satisfy given requirements, but it is the management of the environment itself. Column 26, lines 20-23. The service management provides the interface between the environment management team, the development teams, and external vendors or service providers. Column 30, lines 39-41. Once the SLA is defined, the resources required for delivering the service can be specified. Column 33, lines 51-53.

There is no language in the cited passages that discloses reviewing the request in accordance with control information for managing the request. Thus, Bowman does not disclose all of the limitations of claims 1, 15, 26 and 37.

As stated above, Appellant respectfully asserts that the rejection has cited to various passages in Bowman without providing any logical connection between those cited passages and the claim limitations. The rejection does not provide a basis in fact and/or technical reasoning to support the assertion that the cited passages in Bowman disclose the above-cited claim limitation. *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). Since the rejection has not provided any such objective evidence, the rejection has not presented a *prima facie* case of anticipation for rejecting claims 1, 15, 26 and 37.

C. Response to argument that Bowman discloses "assigning said first request to one or more developers" as recited in claim 1 and similarly in claims 15, 26 and 37, as discussed on page 22 of Examiner's Answer.

The rejection had previously cited column 21, line 65 and column 49, lines 6-10 of Bowman as disclosing "assigning said first request to one or more developers" as recited in claim 1 and similarly in claims 15, 26 and 37. Office Action (12/1/2005), page 3. The rejection now additionally cites column 21, line 65; column 33, line 57; and column 49, lines 6-10 of Bowman as also disclosing the above-cited claim limitation. Examiner's Answer, page 22. Appellant respectfully traverses.

The newly cited passages teach the following:

Bowman discloses that clearly assign ownership for the contents of each folder. Column 21, line 65. Daily tasks must be specified, assigned, and followed up. Column 33, line 57. Workflow management tools address this problem by providing the ability to define, manage, and execute automated business process through an electronic representation of the process, both in terms of what has to be done, and by whom. Column 49, lines 6-10.

There is no language in the cited passages that discloses assigning the request (the request that comprises a description of the development environment and the software application to be developed where the development environment comprises hardware components and software components) to one or more developers. Thus, Bowman does not anticipate claims 1, 15, 26 and 37.

D. Response to argument that Bowman discloses "processing said first request" as recited in claim 1 and similarly in claims 15, 26 and 37, as discussed on pages 23-24 of Examiner's Answer.

The rejection had previously cited column 25, lines 31-55 of Bowman as disclosing "processing said first request" as recited in claim 1 and similarly in claims 15, 26 and 37. Office Action (12/1/2005), page 4. The rejection now additionally cites column 26, lines 11-18; column 36, lines 30-35; column 58, lines 52-67; and column 114, line 55 of Bowman as also disclosing the above-cited claim limitation. Examiner's Answer, pages 23-24. Appellant respectfully traverses.

These newly cited passages teach the following:

Bowman discloses a number of task packages for project management. Column 26, lines 11-18. The most critical and perhaps the most difficult work occurs up front. Column 36, lines 30-32. The success of the entire design effort depends on the quality of the work performed to gather, document, communicate, and analyze requirements in the early stages. Column 36, lines 32-35. Program and project management tools assist the management teams in their daily work. Column 58, lines 52-53. Planning tools are used to assist in program and project planning including the development of the program resource plan, the work breakdown structure, the organization breakdown structure, cost accounting, milestones and deliverables. Column 58, lines 53-56. A production

schedule is then planned to meet these requirements, taking into consideration other processes occurring throughout the distributed environment. Column 114, lines 55-57.

There is no language in the cited passages that disclose processing the request that comprises a description of the development environment and the software application to be developed where the development environment comprises hardware components and software components. Thus, Bowman does not disclose all of the limitations of claims 1, 15, 26 and 37.

E. Response to argument that Bowman discloses "establishing said development environment upon said processing said first request" as recited in claim 1 and similarly in claims 15, 26 and 37, as discussed on pages 24-25 of Examiner's Answer.

The rejection had previously cited column 25, lines 31-55 of Bowman as disclosing "establishing said development environment upon said processing said first request" as recited in claim 1 and similarly in claims 15, 26 and 37. Office Action (12/1/2005), page 4. The rejection now additionally cites column 36, lines 46-53; column 126, lines 40-64; column 127, lines 8-9 and column 131, lines 34-43 of Bowman as also disclosing the above-cited claim limitation. Examiner's Answer, pages 24-25. Appellant respectfully traverses.

The newly cited passages teach the following:

The overall objective of design is to transform functional and technical specifications into a blueprint of the system, one that will effectively guide construction and testing. Column 36, lines 46-49. Asset management ensures that all assets are registered within the inventory system and that detailed information for registered assets is updated and validated throughout the assets lifetime. Column 126, lines 40-44. It may be appropriate to control assets within the first stage of the life cycle or it may prove more appropriate to implement asset management only from the point of delivery. Column 127, lines 8-11. Capacity modeling and planning ensures that adequate resources will be in place to meet the SLA requirements, keeping in mind operational requirements which may require additional capacity. Column 131, lines 34-38.

There is no language in the newly cited passages of Bowman that discloses establishing the development environment upon the processing the request that comprises a description of the development environment and the software application to be developed where the development environment comprises hardware components and software components. Thus, Bowman does not disclose all of the limitations of claims 1, 15, 26 and 37.

F. Response to argument that Bowman discloses "monitoring said development environment asynchronously for violations of conditions established by said control information" as recited in claim 1 and similarly in claims 15, 26 and 37, as discussed on pages 25-26 of Examiner's Answer.

The rejection had previously cited column 2, lines 49-53 and column 14, lines 59-67 of Bowman as disclosing "monitoring said development environment asynchronously for violations of conditions established by said control information" as recited in claim 1 and similarly in claims 15, 26 and 37. Office Action (12/1/2005), page 4. The rejection now additionally cites column 25, lines 23-29; column 26, lines 20-27; column 131, line 61 – column 132, line 5; and column 132, lines 57-60 of Bowman as also disclosing the above-cited claim limitation. Examiner's Answer, page 26. Appellant respectfully traverses.

The newly cited passages teach the following:

The IMPROVE Job Aid describes the process for solving problems or improving a process. Column 25, lines 23-25. The configuration management is not only the management of the components in a given environment to ensure that they collectively satisfy given requirements, but it is the management of the environment itself. Column 26, lines 20-24. The performance management ensures that the required resources are available at all times throughout the distributed system to meet the agreed upon SLAs. Column 131, lines 65-67. As SLAs will likely be tied in some way to performance, it is important to monitor and correct the systems performance as it degrades to ensure that operational levels are maintained and that the SLA(s) will not be violated. Column 132, lines 57-60.

There is no language in the newly cited passages that discloses monitoring the development environment asynchronously. Neither is there any language in the newly cited passages that discloses monitoring the development environment asynchronously for violations of conditions established by the control information. Thus, Bowman does not disclose all of the limitations of claims 1, 15, 26 and 37.

G. Response to argument that Bowman discloses "notifying a developer of said violated condition" as recited in claim 2 and similarly in claims 16, 27 and 38, as discussed on pages 27-28 of Examiner's Answer.

The rejection had previously cited column 21, line 4 of Bowman as disclosing "notifying a developer of said violated condition" as recited in claim 2 and similarly in claims 16, 27 and 38. Office Action (12/1/2005), page 5. The rejection now additionally cites column 21, lines 1-21 and 26-28; and column 35, lines 30-55 of Bowman as also disclosing the above-cited claim limitation. Examiner's Answer, page 27. Appellant respectfully traverses.

The newly cited passages teach the following:

Detailed, project-specific standards should exist for defining repository objects. Column 21, lines 1-2. Mass changes to the repository can be performed when the validation reports show the occurrence of many standards violations that follow a common pattern. Column 21, lines 7-9. Certain reports should be run daily, such as the list of new data elements or modified data elements. Column 21, lines 17-18. When supporting specific kinds of repository analysis, the repository management team can provide custom reports or ad hoc queries that satisfy particular needs. Column 21, lines 26-28. Problem management is generally associated with the discrepancies that result from the testing process, though it may also be applied to the management of design problems detected during verification or validation steps. Column 35, lines 32-36. Formal problem tracking helps to control the analysis and design process by maintaining documentation of all problems and their solutions. Column 35, lines 43-45.

There is no language in the cited passage that discloses notifying a developer of a violated condition. Thus, Bowman does not disclose all of the limitations of claims 2, 16, 27 and 38.

H. Response to argument that Bowman discloses "inserting information of said violation of said condition in a report; and issuing said report to a customer" as recited in claim 3 and similarly in claims 17, 28 and 39, as discussed on page 28 of Examiner's Answer.

The rejection had previously cited column 21, lines 22-30 and column 35, lines 45-47 of Bowman as disclosing "inserting information of said violation of said condition in a report; and issuing said report to a customer" as recited in claim 3 and similarly in claims 17, 28 and 39. Office Action (12/1/2005), pages 5-6. The rejection now additionally cites column 45, lines 57-59 of Bowman as also disclosing the above-cited claim limitation. Examiner's Answer, page 28. Appellant respectfully traverses.

The newly cited passages recite the following:

E-mail is a convenient tool for distributing information to a group of people, as it has the advantage of delivering content directly to the 'mailbox' of each individual, rather than relying on individuals to access a central data repository in order to retrieve the information. Column 45, lines 57-62.

There is no language in the cited passages that discloses inserting information of a violation of a condition in a report. Neither is there any language in the cited passages that discloses issuing the report to a customer. Thus, Bowman does not disclose all of the limitations of claims 3, 17, 28 and 39.

I. Other matters raised by the Examiner.

All other matters raised by the Examiner have been adequately addressed above and in Appellant's Second Appeal Brief and therefore will not be addressed herein for the sake of brevity.

II. CONCLUSION

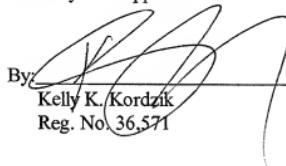
For the reasons stated above and in Appellant's Second Appeal Brief, Appellant respectfully asserts that the rejections of claims 1-47 are in error. Appellant respectfully requests reversal of the rejections and allowance of claims 1-47.

Respectfully submitted,

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